IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of
Inventor(s): Mills

Group Art Unit: 1745

App'n Ser. No.: 09/009,294

Examiner(s): Kalafut *for*
Secret Committee

Filing Date: 01/20/1998

Title: HYDRIDE COMPOUNDS

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30 October 2007

RESPONSE TO FINAL OFFICE ACTION MAILED 7 JUNE 2007, AND REQUEST FOR CONTINUED EXAMINATION

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant files this paper in response to the Final Office Action mailed 7 June 2007. Please consider this paper a Request for Continued Examination and as a Petition for a two-month extension.

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-300 are pending in the application.

In addition to the comprehensive disclosure in Applicant's originally filed specification, Applicant has submitted new, non-cumulative scientific evidence further confirming the existence of lower energy states of hydrogen, which evidence includes, but is not limited to, analytical studies of spectroscopic lines, energy output, compositions of matter, generated plasmas, and inverted hydrogen populations. As detailed below, Applicant also identifies independent third-party data pursuant to the PTO's agreement, which evidence resulted in verbal confirmation by Examiner Wayne Langel that two BlackLight applications formally handled by him were allowable before he was told to misrepresent that fact and, thus, was forced to resign from examining those cases "for moral and ethical reasons."

As further revealed by Examiner Langel, and confirmed by two other Examiners, "allowance is not an option" in any pending BlackLight application according to official PTO policy. Under that arbitrary and capricious policy, the anonymous group of individuals, i.e. "Secret Committee," responsible for directing the named Examiner's actions in this case has knowingly violated well-established patent laws and procedures in presuming the utility of Applicant's novel hydrogen technology to be *per se* incredible as an excuse for its failure to properly consider and evaluate the scientific evidence of record amassed by Applicant at great expense. [See, e.g., MPEP § 2107, pp. 2100-31 ("A conclusion that an asserted utility is incredible can be reached only after the Office has evaluated both the assertion of the applicant regarding utility and any evidentiary basis of that assertion. The [Examiner] should be particularly careful not to start with a presumption that an asserted utility is, *per se*, "incredible" and then proceed to base a rejection under 35 U.S.C. 101 on that presumption.")]

Following Examiner Langel's resignation from examining BlackLight's cases, Applicant was informed that all of those cases would be consolidated under the authority of a new examiner, which was about the time Dr. Bernard Eng-Kie Souw first began making an appearance as the Committee's most prominent and outspoken member. Indeed, Examiner Souw has drafted numerous lengthy appendices totaling hundreds of pages and his views of Applicant's novel hydrogen technology have found their way into virtually every rejection and argument of record in all of Applicant's pending cases. Those views, however, not only lack credibility on the merits, but also, more disturbingly, reflect an extreme bias due to a genuine conflict of interest involving Dr. Souw's ownership of, and work as the lead scientist for, a competing company (BMS Enterprise) while examining Applicant's cases. Consequently, the Committee's rejections in all of BlackLight's cases, including this one, which have adopted Dr. Souw's biased and erroneous views, are fatally defective and should be immediately withdrawn to allow these cases to issue.

In furtherance of its "allowance is not an option" policy, the Committee has also manufactured new, and often conflicting, patentability standards that have been used to improperly discount or wholly ignore Applicant's scientific data evidencing the existence of lower-energy hydrogen. For instance, the Committee has improperly imposed

standards without legal basis requiring that Applicant publish his scientific evidence in peer-reviewed journal articles to establish its credibility and that Applicant's theory of operation for his novel hydrogen technology find "support [or acceptance] in the scientific community." Applicant has complied with these contrived standards by submitting over 65 technical articles evidencing the lower-energy states of hydrogen, which have been peer-reviewed by highly qualified PhD's scientists and published in esteemed scientific journals. Yet even that evidence, which the Committee has admitted is entitled to "the credibility that peer-reviewed articles have," is rejected as *per se* incredible because it supposedly "detract[s] from the central issue that the hydrino does not theoretically exist" and that "all of applicant's data cannot prove what is not theoretically possible."

Unable to cite legitimate scientific evidence to counter the extensive credible evidence published in Applicant's peer-reviewed journal articles, the Committee has adopted the fraudulent analysis published in an article by Dr. Andreas Rathke and other fictitious "evidence" in a transparent effort to elevate outdated and flawed quantum theory to the status of "physical law," to make it seem as though the existence of lower-energy hydrogen predicted by Applicant is "incredible." [See *infra.*] Even the Committee's conflicted lead Examiner, BMS President Souw, has admitted, however, that quantum theory "needs improvement" and that the existence of lower-energy hydrogen is not impossible. [*See infra; and see, e.g.,* the Committee's September 29, 2005 Office Action filed in U.S. App'n Ser. No. 09/669,877; Souw Appendix at p. 3 attached August 24, 2004 Office Action filed in U.S. App'n Ser. No. 08/467,051.] Yet, despite these and other embarrassing facts that have come to light, the Committee continues to rely upon the fraud of Dr. Rathke and the biased views of BMS President Souw to avoid fairly considering Applicant's experimental evidence that lower-energy hydrogen does in fact exist.

In view of these and other reasons to be explained, the rejection of claims 1-300 under 35 U.S.C. § 101 and 112, second paragraph, as lacking utility and enablement is respectfully traversed. Applicant respectfully submits that the Committee has not met its burden of raising a *prima facie* case of inoperability for the many reasons of record and, therefore, the rejection should be withdrawn on that basis alone. Furthermore,

Applicant has disclosed substantial experimental evidence in the present disclosure, prior submissions, and submissions filed herewith that fully rebut any *prima facie* case of inoperability the Committee might have raised. Applicant responds more fully to the Committee's comments, discusses the experimental evidence of record, and summarizes the improper prosecution procedures used by the Committee in the following paragraphs. For these additional reasons, the Section 101 rejection should be withdrawn.

Applicant has filed Rule 132 Declarations certifying his submitted experimental evidence, which further rebuts the Committee's unjustified utility and enablement rejections of the claimed invention. This evidence, which the Committee required Applicant to make public by submitting it to scientific journals for publication, conclusively confirms the formation of lower-energy hydrogen through practice of Applicant's novel hydrogen chemistry. To this day, the Committee has failed to properly consider the numerous Rule 132 Declarations previously filed by Applicant in violation of its own rules, as outlined in MPEP § 716:

> Evidence traversing rejections must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action. ... Where the evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such "the declaration lacks technical validity" or "the evidence is not commensurate with the scope of the claims" without an explanation supporting such findings are insufficient. [Emphasis added.]

The Committee does not even mention, let alone consider, most of the certified experimental evidence identified in Applicant's Rule 132 Declarations that was submitted to overcome the rejections of record, which evidence is categorized and summarized below.

Lower-Energy Hydrogen Experimental Data

With this latest submission, Applicant now has over 100 articles and books of record in this case, as reflected in the "List of References" set forth below. These articles detail studies that experimentally confirm a novel reaction of atomic hydrogen,